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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte BORIS ANDREYEVICH KRASNOIAROV, and MICHAEL WEI-CHIN YOUNG

_____

Appeal 2009-004499
Application 10/077,423
Technology Center 2100

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Before LEE E. BARRETT, JOSEPH L. DIXON, and JAY P. LUCAS,
Administrative Patent Judges.

DIXON, *Administrative Patent Judge.*

DECISION ON APPEAL[1]

The Appellants appeal under 35 U.S.C. § 134(a) from the Final
rejection of claims 1, 3-16, 18-31, 33-46, and 48-84. Claims 2, 17, 32, and
47 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

I. STATEMENT OF THE CASE

The Invention

The invention at issue on appeal relates to a method, computer-
readable media, and apparatus for receiving a single request from a client
with a plurality of components, generating a plurality of information
requests from the components to a plurality of content servers, and forming a
personalized page consisting of the responses to the information requests
from the content servers (Spec. 7).

The Illustrative Claim

Claim 1, an illustrative claim, reads as follows:

> 1. A method for satisfying a single request from a client for a
> plurality of content components derived from content hosted by
> a plurality of distinct, separately accessible component servers
> for forming a personalized network page, comprising:
>
> receiving a single request specifying multiple content
> components derived from content hosted by the plurality of
> distinct, separately accessible component servers for forming
> the personalized network page;

after receiving the single request, generating a plurality of information requests for the content as parallel worker threads spawned from a main execution thread;

sending the plurality of requests as parallel or rapid sequential worker threads so that each information request is sent to the component server hosting the content corresponding to the information request before receiving a response to any of the information requests, thereby permitting concurrent generation of the content components at the component servers;

forming the content components from the responses to the information requests including assembling the personalized network page; and

transmitting the personalized network page including the multiple content components to the client and

wherein the single request comprises a request for a personalized Web page; and

wherein the forming comprises assembling the personalized Web page from the content components; and

wherein the transmitting comprises sending the personalized Web page to the client.

The References

The Examiner relies on the following references as evidence:

Nazem	US 5,983,277	Nov. 9, 1999
Ferguson	US 2002/0178232 A1	Nov. 28, 2002
		(filed on Dec. 10, 1997)
McMichael	US 6,941,339 B1	Sep. 6, 2005
		(filed May. 17, 2000)

The Rejections

The following rejections are before us for review:

Claims 1, 3, 12-16, 18, 27-31, 33, 42-46, 48, and 57-84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nazem in view of Ferguson.

Claims 4-11, 19-26, 34-41, and 49-56 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nazem in view of Ferguson, and further in view of McMichael.

II. ISSUE

Has the Examiner erred in finding that the combination of Nazem and Ferguson teaches or fairly suggests "after receiving the single request, generating a plurality of information requests for the content as parallel worker threads spawned from a main execution thread," as recited in independent claim 1?

III. PRINCIPLES OF LAW

Obviousness

"Obviousness is a question of law based on underlying findings of fact." *In re Kubin*, 561 F.3d 1351, 1355 (Fed. Cir. 2009). The underlying factual inquiries are: (1) the scope and content of the prior art, (2) the differences between the prior art and the claims at issue, (3) the level of

ordinary skill in the pertinent art, and (4) secondary considerations of nonobviousness. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007) (citation omitted).

IV. FINDINGS OF FACT

The following findings of fact (FFs) are supported by a preponderance of the evidence.

Ferguson

1.   Ferguson discloses an ad management system (AMS) at user's machine that permits the background delivery of ad banners, transmits an advertiser's web page to the open instance of the browser, and provides default delivery of ad banners from a local repository ([0114].

> The client-side of the ad management system is implemented in the Java programming language. The AMS runs in parallel with the BITE engine 408, responsible for serving the D&D requests, at an overall lower priority than the BITE Engine. The AMS is implemented as two cascaded components working in tandem. The first component is a listener module, which receives interrupts from the Thread Timer 710 every 120 seconds. Upon receipt of the interrupt, it invokes the second component, the Ad Fetcher Thread 708. The Ad fetcher Thread 708 then fires the CGI labeled as CGI_BANNER REQUEST, to the Invention Web Server 302. If it does not receive any response from the Invention Web Server 302 within a preset interval (25% of a 120 second slot), it times out the request. After timing the request out, it reverts back to the default action block and fetches an ad banner from the local ad banner repository (Default Ad Cache 706) . . . . If it receives a valid response from the Invention Web Server 302 in the predetermined slot, it

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> extracts the image URL from the data. It then issues an HTTP
> request to the server for fetching the ad banner over network,
> following the same timeout policy as handling of an HTTP
> request. After fetching the ad banner, it stores the image file in
> the Next Ad Cache 718. The Banner Display Manager picks up
> the image file from the Next Ad Cache 718 banner directory for
> display on the Invention Interface 404.
> ([0121])

2.   Ferguson further discloses a method of background downloading of
Web page information from a network. A BITE client is responsible for
downloading the information from the links selected by a user and stores the
downloaded information as Q-links on the user's hard drive (Abs., [0048],
[0058]-[0064]).

V. ANALYSIS

The Appellants have the opportunity on appeal to the Board of Patent
Appeals and Interferences (BPAI) to demonstrate error in the Examiner's
position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (citing *In re
Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

The Examiner sets forth a detailed explanation of a reasoned
conclusion of unpatentability in the Examiner's Answer. Therefore, we look
to the Appellants' Brief to show error in the proffered reasoned conclusion.
Id.

The Common Feature in Claims

Independent claim 1, recites, *inter alia,* "after receiving the single request, generating a plurality of information requests for the content as parallel worker threads spawned from a main execution thread." Independent claims 16, 31, and 46 contain these limitations.

35 U.S.C. § 103(a) Rejection

With respect to independent claim 1, the Appellants contend that Ferguson does not teach the argued feature that "[t]here is no suggestion that BITE client 408 generates a plurality of information requests for the content requested by the user as parallel worker threads spawned from a main execution thread, and certainly the addition of an Ad banner to requested content does not meet this feature of Applicants' invention." (App. Br. 10).

The Examiner states that "the examiner equates the claimed parallel worker threads spawned from a main execution thread as equivalent to ad management client/server handshaking protocol includes the timeout policies and the Ad Fetcher Thread 708 than fires the CGI labeled as CGI_BANNER REQUEST as taught by Ferguson." (Ans. 8). The Examiner also states that "the artisan would have well appreciated that Ferguson relates to utilizing the JAVA programming language, the Ad Fetcher Thread (AFT item 708), HTTP request and the hands shaking protocol for generating request for content in a rapid sequence for generating a dynamic

server page with plurality of distinct severs [sic] sources as in Nazem." *Id.* at 33-34.

We disagree with the Examiner's reading of the Ferguson reference. We find that paragraph [0121] of the Ferguson reference relied upon by the Examiner only discusses that a client-side Ad Management System (AMS) either fetches an ad banner from the local banner repository or extracts the image URL, and issues a HTTP request to a server to fetch an ad banner over network (FF 1). This is the local sequential operation of the client-side machine to issue one request upon the response of the Invention Web Server 302, and the client-side machine does not generate a plurality of information requests as parallel worker threads from the server. Although the AMS is running parallel with BITE Engine 400 that fetches the information as Q-Link stored in the hard disk (FF 2), the two systems are running independently, and therefore, there are no parallel worker threads spawned from a main execution thread as required by claim 1.

Finally, while we find that the handshaking protocol with timeout policies is common and well known with a client-server communication technique, we find that the handshaking protocol of Ferguson does not send a plurality information requests for the content, and does not work as parallel worker threads spawned from a main execution thread (FF 1). Therefore, we find that Ferguson does not teach the argued limitation as the Examiner stated. We find that the Examiner's position is untenable.

Because we agree with at least one of the Appellants' contentions, we find that the Examiner has not made a requisite showing of obviousness as required to teach or fairly suggest the invention as recited in claim 1 by the combined of Nazem and Ferguson. The rejection of the dependent claims 3-15 and 61-66 contains the same noted deficiency. The Appellants, thus, have demonstrated error in the Examiner's proffered case for obviousness of the subject matter of claims 1, 3-15, and 61-66.

The independent claims 16, 31, and 46 contain similar limitations to those found in independent claim 1. The Appellants present similar arguments as set forth with respect to independent claim 1 in response to the rejections of independent claims 16, 31, and 46 (App. Br. 9, 11).

As we found above in our discussion with respect to independent claim 1, we similarly find that the Appellants have demonstrated error in the Examiner's conclusion for obviousness of the subject matter of independent claims 16, 31, and 46. The rejection of dependent claims 18-30, 33-45, 48-60, and 67-84 also contains the same deficiency. Hence, the Appellants' argument persuades us that the Examiner erred in rejecting claims 1, 3-16, 18-31, 33-46, and 48-84.

We, therefore, cannot sustain the rejection of claims 1, 3-16, 18-31, 33-46, and 48-84 under 35 U.S.C. § 103.

VI. CONCLUSION

We conclude that the Examiner has erred in finding that the combination of Nazem and Ferguson teaches or fairly suggests "after

receiving the single request, generating a plurality of information requests for the content as parallel worker threads spawned from a main execution thread," as recited in independent claim 1.

VII. ORDER

We reverse the obviousness rejections of claims 1, 3-16, 18-31, 33-46, and 48-84 under 35 U.S.C. § 103(a).

<u>REVERSED</u>

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